

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

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In the Matter of )  
Implementation of Section 621(a)(1) of )  
the Cable Communications Policy Act of 1984 ) MB Docket  
No. 05-311  
as amended by the Cable Television Consumer )  
Protection and Competition Act of 1992 )

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**COMMENTS OF FAIRFAX CABLE ACCESS CORPORATION**

These Comments are filed with the Commission by FAIRFAX CABLE ACCESS CORPORATION on the matter of video franchising.

FAIRFAX CABLE ACCESS CORPORATION ("FCAC") is a 501(c)(3) nonprofit educational organization located in Fairfax County, Virginia. FCAC provides training in public access television and radio production to residents of our community and operates cable channels in the County serving the needs of our community. As an independent, nonprofit organization, FCAC is neither a part of the County government nor any video service provider.

At this time, FCAC operates three cable channels that serve Fairfax County, the cities of Fairfax and Falls Church, and the towns of Vienna, Herndon and Clifton, Virginia. These channels include CHANNEL 10, our flagship public access channel, which includes programs on public affairs, the arts and children's programming. WRLD 30 is our International Channel, which features programming in Spanish, Vietnamese, Korean and other languages serving 15 ethnic communities. We believe the WRLD 30 International Channel provides a great benefit and service to the richly diverse population of our community. WEBR 37 is our cable radio channel which features a video community bulletin board that runs announcements for hundreds of community, civic and volunteer organizations serving our community.

Fairfax County, Virginia, has a population of over one million residents. The County's franchised cable providers are Verizon Virginia, Inc. ("Verizon"), Cox Communications of Northern Virginia ("Cox") and Comcast Virginia ("Comcast").

Fairfax County is divided into three distinct cable franchise areas. In two cable franchise areas (the North Franchise Area and South Franchise Area), Verizon competes as an overbuilder with Cox. In the third cable franchise area (the Reston Franchise Area) Verizon competes as an overbuilder with Comcast.

Teleco entry into the video service arena through the local franchising process has worked well and in a timely manner within our community. On July 15, 2005, Verizon submitted an application for an initial cable television franchise to encompass all three of the County's Cable Franchise Areas. Subsequently, on September 26, 2005, the Fairfax County Board of Supervisors voted to grant 15 year franchises to Verizon for all three Franchise Areas in the County.

County Government Staff worked diligently and expeditiously to negotiate a Franchise Agreement for Verizon that both Verizon and the incumbent cable providers praised as being fair and equitable. Additionally, County Staff worked to ensure that the franchising process was completed in a timely manner.

Further, Verizon has been granted separate Cable Franchises from the City of Fairfax, the City of Falls Church and the Town of Herndon, Virginia. Each of these Cable Franchises is for a term of 15 years.

Verizon's Franchise Agreement with Fairfax County, requires that Verizon pay to the County a Franchise Fee equal to five percent of gross revenues and a PEG Capital Grant equal to three percent of gross revenues less the five percent Franchise Fee. These obligations mirror those of Cox and Comcast.

Under its franchise agreement with the County, Verizon will provide carriage of up to 18 PEG channels, including carriage of four FCAC channels – Channel 10, WRLD 30, WEBR 37 and a fourth reserved channel that will be activated under terms specified in FCAC's Administration Agreement with Verizon. As mentioned above, FCAC Channel 10, WRLD 30 and WEBR 37 greatly serve the public interest in Fairfax County. Verizon's PEG channel carriage obligations mirror those of Cox and Comcast (however, Verizon carries the (Comcast) Reston Channel 28, which Cox currently does not).

FCAC is extremely concerned that some (although not all) proposed legislation designed to eliminate local franchising would jeopardize either the continued carriage of our channels, our funding, or both.

Some proposals would freeze the number of PEG channels in a franchise area at current levels. Such legislation could interfere with the future activation of FCAC's reserved fourth channel mentioned above. Further, some proposed legislation would actually decrease the number of PEG channels that a video service provider would be required to carry in a local franchise area.

Likewise, FCAC is very concerned that some proposed legislation designed to eliminate local franchising would decrease the funding that localities receive from video service providers. Some proposed legislation would eliminate the three percent PEG Capital Grant paid to some local franchising authorities. Other proposals would be even more extreme -- limiting the amounts paid to local franchising authorities to only the recovery of public right-of-way management costs. Either scenario would have a disastrous effect on FCAC's ability to provide local public access services to our community.

Further, it has also been proposed that franchise fees should be 5% of subscriber revenue, not the 5% of gross revenues, upon which franchise fees traditionally have been calculated -- thereby eliminating revenues from ad sales, leased access revenues, and other revenue streams from the formula used to calculate the Franchise Fee.

### **Conclusions**

The local cable franchising process has worked well in Fairfax County. This franchising process has allowed the entry of Verizon as a competitive video service provider in our community in a timely manner, while at the same time allowing our County government to ensure that all video providers, including Verizon, meet our community's unique needs and interests -- including the provision of local public access services which greatly benefit our community.

FAIRFAX CABLE ACCESS CORPORATION therefore respectfully requests that the Commission do nothing to interfere with local government authority over franchising or to otherwise impair the operation of the local franchising process as set forth under existing Federal law with regard to either existing cable service providers or new entrants.

Respectfully submitted,  
FAIRFAX CABLE ACCESS CORPORATION

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